

RECEIVED  
CENTRAL FAX CENTER

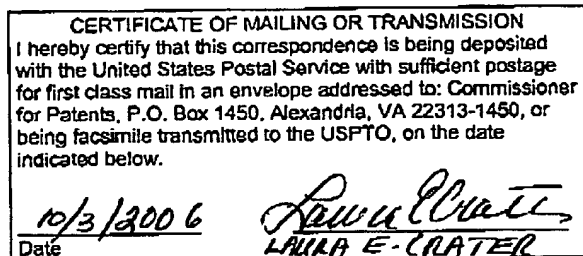
OCT 03 2006

IN THE UNITED STATES  
PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

Appellant(s): **Goode** Case: **DIVA/302**  
Serial No.: **09/922,242** Examiner: **Shirley Lu**  
Filed: **August 3, 2001** Group Art Unit: **2612**  
Title: **CUSTOMIZED USER INTERFACE GENERATION IN A VIDEO  
ON DEMAND ENVIRONMENT**  
Confirmation No.: **9090**

MAIL STOP APPEAL BRIEF-  
PATENTS  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450



SIR:

APPEAL BRIEF

Appellant submits this Appeal Brief to the Board of Patent Appeals and Interferences on appeal from the decision of the Examiner of Group Art Unit 2612 dated May 3, 2006 finally rejecting claims 1-25.

In the event that an extension of time is required for this appeal brief to be considered timely, and a petition therefor does not otherwise accompany this appeal brief, any necessary extension of time is hereby petitioned for.

The Commissioner is authorized to charge the Appeal Brief fee (\$250) and any other fees due to make this filing timely and complete (including extension of time fees) to Deposit Account No. 20-0782/SEDN/302.

10/05/2006 3:00:00PM 00000000 200702 09922242  
01 FC:2402 250.00 00

Serial No. 09/922,242  
Page 2 of 33

**Table of Contents**

|     |   |    |
|-----|---|----|
| 1.  | Identification Page.....                            | 1  |
| 2.  | Table of Contents .....                             | 2  |
| 3.  | Real Party in Interest .....                        | 3  |
| 4.  | Related Appeals and Interferences .....             | 4  |
| 5.  | Status of Claims .....                              | 5  |
| 6.  | Status of Amendments .....                          | 6  |
| 7.  | Summary of Claimed Subject Matter .....             | 7  |
| 8.  | Grounds of Rejection to be Reviewed on Appeal ..... | 16 |
| 9.  | Arguments .....                                     | 17 |
| 10. | Conclusion .....                                    | 25 |
| 11. | Claims Appendix .....                               | 26 |
| 12. | Evidence Appendix .....                             | 32 |
| 13. | Related Proceedings Appendix .....                  | 33 |

Serial No. 09/922,242

Page 3 of 33

**Real Party in Interest**

The real party in interest is Sedna Patent Services, LLC.

502407-1

Serial No. 09/922,242  
Page 4 of 33

### **Related Appeals and Interferences**

Appellant asserts that no appeals or interferences are known to Appellant, Appellant's legal representative, or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

502407-1

Serial No. 09/922,242

Page 5 of 33

### **Status of Claims**

Claims 1-25 were originally presented in the application.

The pending claims are shown in the attached Appendix.

Serial No. 09/922,242

Page 6 of 33

### **Status of Amendments**

All claim amendments have been entered.

502407-1

Serial No. 09/922,242  
Page 7 of 33

### **Summary of Claimed Subject Matter**

Embodiments of the present invention generally are directed to a method and apparatus for inserting a compressed digital video (such as an advertisement) into a compressed digital program video such that substantially seamless transitions may be made between the streams. A substantially seamless transition is where little or no visual artifacts are observed by the end-user when the combined stream is decoded and displayed.

The present invention determines various characteristics associated with a first compressed digital stream, such as a program video stream. After determining the characteristics or "profile" of the first compressed digital stream, the determined profile is used as part of an encoding process for one or more additional streams. That is, in response to a determination of the profile of a first compressed/encoded stream, one or more additional compressed/encoded streams are produced in accordance with the determined profile. In this manner, the first and subsequent encoded stream characteristics are such that the splicing of the first and subsequent streams produces a combined stream which, when decoded and displayed, will produce imagery having minimal visual artifacts.

The profile (or characteristics, which typically include the bit rate) of a compressed video stream continually changes over time depending on the contents of the video, the parameter values used to encode the video, and other factors. Unless care is taken to ensure that the splicing is accomplished at the proper points within the compressed video stream and with matched encoding profiles for the compressed streams to be merged, various unsightly artifacts or other anomalies can result in the multiplexed output video. Such artifacts and anomalies may include, for example, severe macroblocking, dropped frames, macroblock panics, audio glitches, pop gurgling noises, drop outs, and so on.

The invention enables, for example, advertising insertion within the context of a navigator or interactive program guide (IPG) such that the viewer or user receives a customized or targeted advertisement while interacting with an

502407-1

Serial No. 09/922,242

Page 8 of 33

information distribution system such as a video on demand (VOD) system. A navigator screen comprising a video layer, a graphics layer and a control layer may include targeted advertisement within one or both of the video layer and graphics layer.

The included advertisement may be still or moving imagery, such as bit map graphics, still images, moving images such as movie trailers and the like. Selection of a video or graphic object associated with an advertisement contextually routes the user or viewer to the advertised product or service. In one embodiment, a graphics layer object obscures a still or moving image advertisement within the video layer such that a user may only view the advertisement by selecting the obscuring graphic layer object. In this manner, user interaction may be recorded at a head-end.

A method according to the invention for delivering customized navigation imagery to a user comprises: determining a profile associated with an encoded navigation stream, the profile including spatial and temporal parameters; encoding a video stream according to the profile to produce an encoded video stream, the encoded video stream representing imagery having associated with it a screen position and an image size; combining the encoded navigation stream and the encoded video stream to produce a combined stream representing navigation imagery including the video stream imagery within the screen position and according to the screen size.

For the convenience of the Board of Patent Appeals and Interferences, Appellant's independent claims 1, 20 and 21 are presented below in claim format with elements read on the various figures of the drawings and appropriate citations to at least one portion of the specification for each element of the appealed claims.

Claim 1 positively recites (with reference numerals, where applicable and cites to at least one portion of the specification added):

1. (original) A method (400) (FIG. 4, Pg. 12, Line 24 – Pg. 13, Line 16) for delivering customized navigation imagery to a user, comprising:



Serial No. 09/922,242  
Page 9 of 33

determining (414) a profile associated with an encoded navigation stream (COMPRESSED PROGRAM VIDEO), said profile including spatial and temporal parameters (Pg. 6, Line 28 – Pg. 7, Line 16);

encoding (418) a video stream (ADVERTISEMENT VIDEO) according to said profile to produce an encoded video stream, said encoded video stream representing imagery having associated with it a screen position and an image size (Pg. 7, Line 26 – Pg. 8, Line 22);

combining (426) said encoded navigation stream and said encoded video stream to produce a combined stream (OUTPUT VIDEO) (Pg. 8, Line 30 – Pg. 9, Line 10) representing navigation imagery (600) including said video stream imagery, said video stream imagery having associated with it said screen position and said screen size (Pg. 17, Line 27 – Pg. 18, Line 2).

Claim 20 positively recites (with reference numerals, where applicable and cites to at least one portion of the specification added):

20. (original) A method (400) (FIG. 4, Pg. 12, Line 24 – Pg. 13, Line 16) for generating a customized user interface, said user interface comprising imagery supported by a video layer and a graphics layer, said video layer provided via an encoded video stream, said graphics layer provided via graphics data, said graphics data and said video stream intended for contemporaneous presentation, said method comprising:

determining (414) a profile associated with an encoded navigation stream (COMPRESSED PROGRAM VIDEO), said profile including spatial and temporal parameters (Pg. 6, Line 28 – Pg. 7, Line 16);

encoding (418) a video stream (ADVERTISEMENT VIDEO) according to said profile to produce an encoded video stream, said encoded video stream representing imagery having associated with it a screen position and an image size (Pg. 7, Line 26 – Pg. 8, Line 22);

combining (426) said encoded navigation stream and said encoded video stream to produce a combined stream (OUTPUT VIDEO) (Pg. 8,

502407-1

Serial No. 09/922,242

Page 10 of 33

Line 30 – Pg. 9, Line 10) representing navigation imagery (600) including said video stream imagery within said screen position and according to said screen size (Pg. 17, Line 27 – Pg. 18, Line 2).

Claim 21 positively recites (with reference numerals, where applicable and cites to at least one portion of the specification added):

21. (previously presented) A method for delivering customized navigation imagery to a user, comprising:

receiving a request from a user for navigation imagery (Pg. 21, Line 30 – Pg. 22, Line 9);

retrieving, from a server (510), navigation imagery (NV) and advertising imagery (AV) appropriate for said user (Pg. 21, Line 30 – Pg. 22, Line 9) (Pg. 18, Lines 21-25);

encoding (555) said retrieved navigation imagery and advertising imagery to produce an encoded navigation video stream, said navigator video stream representing navigation imagery including advertising imagery appropriate to said user (Pg. 24, Lines 6-8) (Pg. 18, Lines 21-25);

determining (414) a profile associated with said encoded navigation stream, said profile including spatial and temporal parameters;

encoding (418) a video stream according to said profile to produce an encoded video stream, said encoded video stream representing imagery having associated with it a screen position and an image size (Pg. 7, Line 26 – Pg. 8, Line 22);

combining (206) said encoded navigation stream and said encoded video stream to produce a combined stream representing navigation imagery including said video stream imagery (Pg. 18, Line 10 – Pg. 19, Line 18), said video stream imagery having associated with it said screen position and said screen size (Pg. 24, Line 29 – Pg. 25, Line 20).

For the convenience of the Board of Patent Appeals and Interferences,

502407-1

Serial No. 09/922,242

Page 11 of 33

Appellant's dependent claims are presented below in claim format with elements read on the various figures of the drawings and appropriate citations to at least one portion of the specification for each element of the appealed claims.

2. (original) The method of claim 1, wherein said profile defines a group of pictures (GOP) structure (Pg. 6, Line 28 – Pg. 7, Line 16).
3. (original) The method of claim 1, wherein said profile defines at least one of an encoding rate, and encoding resolution, and encoding profile and a quantization level (Pg. 6, Line 28 – Pg. 7, Line 16) (Pg. 8, Line 27 – Pg. 9, Line 5).
4. (original) The method of claim 1, wherein said spatial parameters include a frame size parameter and said temporal parameters include a frame rate parameter (Pg. 19, Lines 2-32).
5. (original) The method of claim 1, wherein said encoded navigation stream and said encoded video stream are encoded according to a common group of picture (GOP) data structure (Pg. 6, Line 28 – Pg. 7, Line 16), said step of combining further comprising:  
aligning said encoded navigation stream and said encoded video stream according to said common GOP structure (Pg. 7, Lines 2-16) (Pg. 10, Lines 6-30).
6. (original) The method of claim 1, wherein said step of encoding said video stream comprises the steps of adapting said video stream imagery to said screen position and said screen size (Pg. 19, Lines 2-32).
7. (original) The method of claim 6, wherein said video stream imagery is adapted to said screen size using a decimation process (Pg. 19, Lines 2-32).

502407-1

Serial No. 09/922,242  
Page 12 of 33

8. (original) The method of claim 1, wherein said screen position comprises a reference position, said step of combining including:
  - determining a desired reference screen position for said encoded video stream imagery (Pg. 19, Lines 1-18); and
  - translating said screen position of said encoded video stream to said desired reference screen position (Pg. 24, Line 29 – Pg. 25, Line 20).
9. (original) The method of claim 1, wherein:
  - said navigation stream represents navigation imagery supported by a video layer and a graphics layer, said video layer provided via a navigation video stream encoded according to said common GOP structure and said profile, said graphics layer provided via graphics data included within an associated graphics data stream, said graphics data and said navigation video stream intended for contemporaneous presentation (Pg. 2, Lines 22-32).
10. (original) The method of claim 9, wherein:
  - said graphics data includes graphical imagery positioned coincident with said screen position, said graphical imagery to at least partially obscuring said encoded video stream upon presentation of said combined stream (Pg. 21, Line 14 – Pg. 22, Line 9).
11. (original) The method of claim 10, further comprising:
  - receiving, a user command indicative of the selection of said graphical imagery at least partially obscuring said encoded video stream (Pg. 21, Line 14 – Pg. 22, Line 9); and
  - modifying said obscuring graphical imagery to allow user viewing of said encoded video stream (Pg. 21, Line 14 – Pg. 22, Line 9).

502407-1

Serial No. 09/922,242  
Page 13 of 33

12. (original) The method of claim 11, further comprising updating demographic data associated with said user in response to said user command (Pg. 16, Line 16 – Pg. 17, Line 4).
13. (original) The method of claim 1, wherein said combined stream represents navigation imagery including advertising imagery appropriate to said user (Pg. 18, Lines 21-25).
14. (original) The method of claim 13, wherein said advertising imagery is determined to be appropriate by comparing at least one of user preference data and usage based profile data to preference data associated with available advertising imagery (Pg. 17, Lines 5-13) (Pg. 18, Lines 21-25).
15. (original) The method of claim 13, wherein said advertising imagery comprises still imagery provided as one of video imagery and a bitmap image (Pg. 13, Line 21 – Pg. 14, Line 2).
16. (original) The method of claim 13, wherein said still imagery comprises a bitmap and said method further comprises:  
adapting a color palette of said bitmap to a color palette compatible with said navigation stream (Pg. 22, Lines 22-29).
17. (original) The method of claim 13, wherein said still imagery comprises video imagery encoded according to said GOP structure wherein an intra-coded frame of said GOP structure represents said still imagery and a plurality of inter-coded frames of said GOP structure operate to repeat at least portions of said Intra-coded frame (Pg. 20, Line 22 – Pg. 23, Line 5).

Serial No. 09/922,242

Page 14 of 33

18. (original) The method of claim 1, wherein said step of combining comprises:

removing data within said navigation stream representing image slices substantially corresponding to said stream position and image size to produce a reduced data encoded navigation stream (Pg. 19, Lines 24-32);

said combined stream comprising said reduced data encoded navigation stream and said encoded video stream, said encoded video stream including data representing image slices corresponding to said stream position and image size (Pg. 19, Lines 24-32).

19. (original) The method of claim 1, wherein said step of combining comprises:

removing data within said navigation stream representing image macroblocks substantially corresponding to said stream position and image size to produce a reduced data encoded navigation stream (Pg. 19, Lines 24-32);

said combined stream comprising said reduced data encoded navigation stream and said encoded video stream, said encoded video stream including data representing image macroblocks corresponding to said stream position and image size (Pg. 19, Lines 24-32).

22. (original) The method of claim 21, wherein said advertising imagery is determined to be appropriate by comparing user preference data and preference data associated with available advertising imagery (Pg. 18, Lines 21-25).

23. (original) The method of claim 21, wherein said advertising imagery comprises still imagery (Pg. 13, Line 21 – Pg. 14, Line 2).

Serial No. 09/922,242

Page 15 of 33

24. (original) The method of claim 23, wherein said still imagery comprises a bitmap (Pg. 13, Line 21 – Pg. 14, Line 2).

25. (original) The method of claim 21, wherein:

said navigation imagery is supported by a video layer and a graphics layer, said video layer provided via a navigation video stream encoded according to said common GOP structure and said profile, said graphics layer provided via graphics data included within an associated graphics data stream, said graphics data and said navigation video stream intended for contemporaneous presentation (Pg. 22, Lines 22-29).

502407-1

Serial No. 09/922,242

Page 16 of 33

### **Grounds of Rejection to be Reviewed on Appeal**

Claims 1-6, 8-11, 13-17, and 20 are rejected under §35 U.S.C. 102(e) as being anticipated by Gordon WO 00/64170.

Claims 21-25 are rejected under 35 U.S.C. §102(e) as being anticipated by Gordon 6584153 (hereinafter Gordon '153).

Claim 12 is rejected under 35 U.S.C. §103(a) as being unpatentable over Gordon WO 00/64170.

Claim 7 is rejected under 35 U.S.C. §103(a) as being unpatentable over Gordon WO 00/64170 in view of Gordon WO 01/031914, and in further view of Kondo 200500189116 (hereinafter Kondo).

Claim 18 is rejected under 35 U.S.C. §103(a) as being unpatentable over Gordon WO 00/64170 in view of Gordon WO 01/031914.

Claim 19 is rejected under 35 U.S.C. §103(a) as being unpatentable over Gordon WO 00/64170 in view of Gordon WO 01/031914, and further in view of Boucher et al. 6675387 (hereinafter Boucher).

502407-1



Serial No. 09/922,242  
Page 17 of 33

## ARGUMENTS

**I. THE EXAMINER ERRED IN REJECTING CLAIMS 1-6, 8-11, 13-17, AND 20-25 UNDER §35 U.S.C. 102(E) BECAUSE THE CITED REFERENCE FAILS TO DISCLOSE OR SUGGEST AT LEAST: (1) "DETERMINING A PROFILE ASSOCIATED WITH AN ENCODED NAVIGATION STREAM....," AND (2) "ENCODING A VIDEO STREAM ACCORDING TO SAID PROFILE...."**

Claims 1-6, 8-11, 13-17, and 20 stand rejected under §35 U.S.C. 102(e) as being anticipated by Gordon WO 00/64170. Appellant respectfully traversed the rejection.

**A. §35 U.S.C. 102(e) – Claims 1-6, 8-11, 13-17, and 20**

Claims 1-6, 8-11, 13-17, and 20 stand rejected under §35 U.S.C. 102(e) as being anticipated by Gordon WO 00/64170 (hereinafter "Gordon '170"). Appellant respectfully traverses the rejection.

The Gordon '170 reference fails to disclose or suggest at least the steps of: (1) "determining a profile associated with an encoded navigation stream....," and (2) "encoding a video stream according to said profile...."

Gordon '170 discloses a data structure and related methods associated with providing an interactive program guide. Part of these methods include the encoding of various streams according to a fixed (predefined) profile. That is, the Gordon '170 arrangement utilizes a video profile module 460 (see figure 4) which provides profile data to a number of encoders.

The video profile module 460 does not receive information from any other component within the Gordon '170 arrangement. There is no teaching within Gordon '170 of a video profile being determined in any manner, much less the manner claimed herein with respect to the subject invention. The plain teaching of Gordon '170 is of a video profile module operating in isolation to provide a common video profile to each of a plurality of encoded video streams. Further,

502407-1

Serial No. 09/922,242

Page 18 of 33

the structure of Gordon, which includes the video profile module 460 operating by itself (i.e., receiving no data from any other element) inescapably leads to the conclusion that Gordon '170 cannot possibly teach the structure of the claimed invention herein.

The Board is referred to figure 4 of Gordon, which depicts a high-level block diagram of an interactive information distribution system. Of particular interest is the video profile module 460, which the Examiner equates to the claim elements relating to the profiling functionality of the claimed invention. Page 17, lines 13-17 of Gordon '170 state that:

"the streams are generated in a synchronized manner with respect to a clock source 405, such that GOP structures, sequence headers, I-picture location and other parameters (which are indicated by the profile unit 460) are aligned across a plurality of information streams."

The above-quoted portion of Gordon, as well as an inspection of figure 4 of Gordon, reveals that Gordon '170 merely teaches a video profile module 460 that is responsive only to a clock signal. The video profile module 460 does not receive input from any other functional element within the Gordon '170 system. As such, to the extent that the video profile module 460 provides data to various video encoders, such data is predefined or otherwise static. No profile determination is made by Gordon.

Thus, with respect to (1) "determining a profile associated with an encoded navigation stream...", it is noted that Gordon '170 teaches no such step. Gordon '170 simply does not utilize an encoded navigation stream. Therefore, there is no profile of such an encoded navigation stream to be determined. Therefore, there can be no step of determining.

With respect to (2) "encoding a video stream according to said profile...", it is noted that Gordon '170 teaches no such step. As noted above, Gordon '170 simply does not determine such a profile. Therefore, Gordon '170 cannot be said to teach the utilization of such a determined profile.

In summary, to the extent that Gordon '170 utilizes any encoded streams (video or otherwise), such streams are encoded at the same time and without

Serial No. 09/922,242

Page 19 of 33

any conformance to a profile derived from another stream. More specifically, there is absolutely no teaching or suggestion in Gordon '170 of any use of any video stream to determine a profile that is subsequently used to encode another video stream. The Gordon '170 arrangement simply operates in a different manner than the claimed invention.

In the final Office Action, in the response to arguments section on page 2, the Examiner states:

Gordon '170 discloses "determining a profile associated with an encoded navigation stream" and "encoding a video stream according to said profile." The profile parameters that is part of the transport MPEG stream, is actually encoded video data. This reads on the encoding video stream according to said profile. In other words, the profile parameter information is the claimed "profile associated with an encoded navigation stream because the profile parameter information is being derived from the MPEG transport stream, it is well known that the MPEG transport stream is comprised of compressed video data. Since demultiplexer 230 demultiplexes the MPEG transport stream, it thereby determines a profile associated with an encoded navigation stream, to be supplied to the video decoder to decoder the MPEG transport stream....

Appellant strongly disagrees with the above statement. The Examiner is mischaracterizing different levels of MPEG functionality and also somehow linking subscriber side functionality to server side functionality. Moreover, whatever is supplied to the decoder is not relevant to the claimed invention.

The transport demultiplexer 230 is a mechanism for separating or demultiplexing packetized streams. The transport demultiplexer 230 extracts from a transport stream a sub stream comprising those packets having a common packet Identification (PID). Gordon '170 at column 16, line 23 discusses an embodiment in which the transport demultiplexer 230 "produces" sequence headers and I-picture locations. Information used to identify a particular stream (via the PID) or an access unit or frames boundary within the stream (via the sequence header or I-picture locations) do not even teach the claimed profile information (which also includes spatial information).

The following differences between the claimed invention and Gordon '170 are noted:

502407-1

Serial No. 09/922,242  
Page 20 of 33

(1) Gordon '170 does not discuss spatial profile data, only frame boundary data;

(2) Irrespective of the profile data discussed in Gordon, the profile data is extracted at subscriber side equipment and provided, if at all, to a decoder (rather than an encoder); and

(3) There is no providing of the Gordon '170 profile data to an encoder, much less an encoder according to claimed invention.

(1) Gordon '170 does not discuss spatial profile data, only frame boundary data. The profile data discussed by Gordon '170 with respect to transport demultiplexer 230 is not data included as part of a transport stream; rather, the profile data may be determined by examining packets associated with substreams within the transport stream. Thus, contrary to the Examiner's assertions, profile parameters are not part of the transport MPEG stream. In fact, segment or access unit boundaries at most provide some temporal information associated with a sub stream.

(2) Irrespective of the profile data discussed in Gordon, the profile data is extracted at subscriber side equipment and provided, if at all, to a decoder (rather than an encoder). That is, there's absolutely no teaching in Gordon '170 of profile data derived via the transport demultiplexer 230 (or any other element) which is used in the process of encoding a video stream. Whether a video decoder within Gordon '170 uses or does not use any profile data is irrelevant to the present analysis. The present invention operates within the context of a video encoder as, for example, at a server. The portion of Gordon '170 cited by the Examiner pertains to subscriber functionality, which functionality has absolutely nothing to do with the claimed invention.

(3) There is no providing of the Gordon '170 profile data to an encoder, much less an encoder according to claimed invention. As previously noted, there is no use of any profile data by the video profile module 460 of Gordon '170 (it merely provides common profile data). Thus, the encoders of Gordon '170 do not encode in response to video profiles extracted or determined from any other

502407-1

Serial No. 09/922,242

Page 21 of 33

video stream. There is simply no connection between the operation of the transport demultiplexer 230 within the subscriber equipment of Gordon '170 and the video profile module 460 within the server equipment of Gordon. These elements are not connected, they are not responsive to each other and they certainly do not teach the claimed invention.

Thus, even if the subscriber side circuitry somehow determined profile information associated with the received video stream, there is simply no disclosure or suggestion of such determined profile information being propagated back to the encoding circuitry at the server. As such, whatever encoding process occurs in Gordon, to the extent that profile information is utilized within an encoding process such profile information does not come from the subscriber side apparatus or from any other stream profile. Therefore the Examiner's contention is simply incorrect.

Therefore, Appellant submits that independent claim 1 is not anticipated and fully satisfies the requirements of 35 U.S.C. §102 and is patentable thereunder. Furthermore, independent claim 20 recites features substantially similar to the features of claim 1. As such, for at least the reasons discussed above with respect to claim 1, independent claim 20 is also not anticipated by Gordon '170 and fully satisfies the requirements of 35 U.S.C. §102 and is patentable thereunder.

Accordingly, Appellant submits that claims 1 and 20 are not anticipated and fully satisfy the requirements of 35 U.S.C. §102 and are patentable thereunder. Furthermore, claims 2-6, 8-11, and 13-17 depend, either directly or indirectly, from independent claim 1 and recite additional limitations therefor. As such, and for at least the same reasons as discussed above with respect to claim 1, Appellant submits that these dependent claims are also not anticipated and fully satisfy the requirements of 35 U.S.C. §102 and are patentable thereunder. Therefore, Appellant respectfully requests that the rejection be withdrawn.

Serial No. 09/922,242

Page 22 of 33

**B. §35 U.S.C. 102(e) -- Claims 21-25**

The Examiner has rejected claims 21-25 under 35 U.S.C. §102(e) as being anticipated by Gordon 6,584,153, hereinafter "Gordon '153." Appellant respectfully traverses the rejection.

Appellant respectfully notes that the relevant portion of Gordon '153 is the same as discussed above with respect to Gordon '170. Moreover, since claim 21 includes relevant limitations similar to those recited in independent claims 1 and 20, for at least the same reasons as discussed above with respect to claim 1, Appellant submits that claim 21 is allowable. Furthermore, claims 22-25 depend directly from independent claim 21 and recite additional limitations therefrom. As such, and for at least the reasons as discussed above with respect to claim 21, Appellant submits that these dependent claims are also not anticipated and fully satisfy the requirements of 35 U.S.C. §102 and are patentable thereunder. Therefore, Appellant respectfully requests that the rejection be withdrawn.

**II. THE EXAMINER ERRED IN REJECTING CLAIM 12 UNDER §35 U.S.C. 103(A) BECAUSE THE CITED REFERENCE FAILS TO DISCLOSE OR SUGGEST AT LEAST THE LIMITATIONS OF CLAIM 1, FROM WHICH CLAIM 12 DEPENDS, AND BECAUSE NO SUPPORT FOR THE EXAMINER'S OFFICIAL NOTICE HAS BEEN OFFERED.**

Claim 12 is rejected under 35 U.S.C. §103(a) as being unpatentable over Gordon WO 00/64170. Appeal of this rejection is requested.

Claim 12 is patentable for at least the reasons discussed above with respect to claim 1 from which it depends (i.e., Gordon fails to teach or suggest each and every element of Appellant's invention of claim 1).

Additionally, Appellant does not agree with the Examiner's official notice regarding the updating of demographic data. Though such updating may now be well known, the instant application was filed in 2001 and claims priority to a provisional application filed in 2000. The examiner has not submitted support for this official notice. However, in view of the patentability of claim 1 over the

Serial No. 09/922,242  
Page 23 of 33

Gordon reference, there appears to be little need to investigate the propriety of the official notice, though Appellant reserves the right to such a request.

Accordingly, Appellant submits that claim 12 is not obvious and fully satisfy the requirements of 35 U.S.C. §103 and is patentable thereunder.

**III. THE EXAMINER ERRED IN REJECTING CLAIM 7 UNDER §35 U.S.C. 103(A) BECAUSE THE CITED REFERENCES FAIL TO DISCLOSE OR SUGGEST AT LEAST THE LIMITATIONS OF CLAIM 1, FROM WHICH CLAIM 7 INDIRECTLY DEPENDS.**

Claim 7 is rejected under 35 U.S.C. §103(a) as being unpatentable over Gordon WO 00/64170 in view of Gordon WO 01/031914, and in further view of Kondo 200500189116 (hereinafter Kondo). Appeal of this rejection is requested.

Claim 7 is patentable for at least the reasons discussed above with respect to claim 1, from which it indirectly depends. Specifically, the Gordon '170 reference, the Gordon 031914 reference, and the Kondo references either singly or in any allowable combination, fail to disclose or suggest at least the limitations discussed above with respect to claim 1; including the steps of "determining" and "encoding" discussed above with respect to claims 1 and 20. Thus, claim 1 is patentable over any combination of these references. Moreover, since claim 7 depends indirectly from claim 1 and recites additional limitations therefrom, claim 7 is also patentable over these references.

**IV. THE EXAMINER ERRED IN REJECTING CLAIM 18 UNDER §35 U.S.C. 103(A) BECAUSE THE CITED REFERENCES FAIL TO DISCLOSE OR SUGGEST AT LEAST THE LIMITATIONS OF CLAIM 1, FROM WHICH CLAIM 7 DEPENDS.**

Claim 18 is rejected under 35 U.S.C. §103(a) as being unpatentable over Gordon WO 00/64170 in view of Gordon WO 01/031914. Appeal of this rejection is requested.

502407-1

Serial No. 09/922,242

Page 24 of 33

Claim 18 is patentable for at least the reasons discussed above with respect to claim 1, from which it depends. Specifically, the Gordon references either singly or in any allowable combination, fail to disclose or suggest the limitations discussed above with respect to claim 1; namely the steps of "determining" and "encoding" discussed above with respect to claims 1 and 20. Thus, claim 1 is patentable over any combination of these references. Moreover, since claim 18 depends indirectly from claim 1 and recites additional limitations therefrom, claim 18 is also patentable over these references.

**V. THE EXAMINER ERRED IN REJECTING CLAIM 19 UNDER §35 U.S.C. 103(A) BECAUSE THE CITED REFERENCES FAIL TO DISCLOSE OR SUGGEST AT LEAST THE LIMITATIONS OF CLAIM 1, FROM WHICH CLAIM 7 DEPENDS.**

Claim 19 is rejected under 35 U.S.C. §103(a) as being unpatentable over Gordon WO 00/64170 in view of Gordon WO 01/031914, and further in view of Boucher. Appeal of this rejection is requested.

Claim 19 is patentable for at least the reasons discussed above with respect to claim 1, from which it depends. Specifically, the Gordon references and the Boucher reference, either singly or in any allowable combination, fail to disclose or suggest the limitations discussed above with respect to claim 1; namely the steps of "determining" and "encoding" discussed above with respect to claims 1 and 20. Thus, claim 1 is patentable over any combination of these references. Moreover, since claim 19 depends indirectly from claim 1 and recites additional limitations therefrom, claim 19 is also patentable over these references.

502407-1



Serial No. 09/922,242

Page 25 of 33


**CONCLUSION**

Thus, Appellant submits that none of the claims presently in the application are anticipated or obvious under the respective provisions of 35 U.S.C. §§102 and 103. Consequently, Appellant believes all these claims are presently in condition for allowance.

For the reasons advanced above, Appellant respectfully urges that the rejections of claims 1-25 as being anticipated or obvious under the respective provisions of 35 U.S.C. §§102 and 103 are improper. Reversal of the rejections of the Final Office Action is respectfully requested.

Respectfully submitted,

10/3/06  
Date

  
\_\_\_\_\_  
Eamon J. Wall  
Registration No. 39,414  
PATTERSON & SHERIDAN, L.L.P.  
595 Shrewsbury Ave. Suite 100  
Shrewsbury, NJ 07702  
Telephone: (732) 530-9404  
Facsimile: (732) 530-9808  
Attorney for Appellant(s)

Serial No. 09/922,242

Page 26 of 33

**CLAIMS APPENDIX**

1. (original) A method for delivering customized navigation imagery to a user, comprising:
  - determining a profile associated with an encoded navigation stream, said profile including spatial and temporal parameters;
  - encoding a video stream according to said profile to produce an encoded video stream, said encoded video stream representing imagery having associated with it a screen position and an image size;
  - combining said encoded navigation stream and said encoded video stream to produce a combined stream representing navigation imagery including said video stream imagery, said video stream imagery having associated with it said screen position and said screen size.
2. (original) The method of claim 1, wherein said profile defines a group of pictures (GOP) structure.
3. (original) The method of claim 1, wherein said profile defines at least one of an encoding rate, and encoding resolution, and encoding profile and a quantization level.
4. (original) The method of claim 1, wherein said spatial parameters include a frame size parameter and said temporal parameters include a frame rate parameter.
5. (original) The method of claim 1, wherein said encoded navigation stream and said encoded video stream are encoded according to a common group of picture (GOP) data structure, said step of combining further comprising:
  - aligning said encoded navigation stream and said encoded video stream according to said common GOP structure.

502407-1

Serial No. 09/922,242  
Page 27 of 33

6. (original) The method of claim 1, wherein said step of encoding said video stream comprises the steps of adapting said video stream imagery to said screen position and said screen size.

7. (original) The method of claim 6, wherein said video stream imagery is adapted to said screen size using a decimation process.

8. (original) The method of claim 1, wherein said screen position comprises a reference position, said step of combining including:

determining a desired reference screen position for said encoded video stream imagery; and

translating said screen position of said encoded video stream to said desired reference screen position.

9. (original) The method of claim 1, wherein:

said navigation stream represents navigation imagery supported by a video layer and a graphics layer, said video layer provided via a navigation video stream encoded according to said common GOP structure and said profile, said graphics layer provided via graphics data included within an associated graphics data stream, said graphics data and said navigation video stream intended for contemporaneous presentation.

10. (original) The method of claim 9, wherein:

said graphics data includes graphical imagery positioned coincident with said screen position, said graphical imagery to at least partially obscuring said encoded video stream upon presentation of said combined stream.

11. (original) The method of claim 10, further comprising:

receiving, a user command indicative of the selection of said graphical imagery at least partially obscuring said encoded video stream; and

502407-1

Serial No. 09/922,242

Page 28 of 33

modifying said obscuring graphical imagery to allow user viewing of said encoded video stream.

12. (original) The method of claim 11, further comprising updating demographic data associated with said user in response to said user command.

13. (original) The method of claim 1, wherein said combined stream represents navigation imagery including advertising imagery appropriate to said user.

14. (original) The method of claim 13, wherein said advertising imagery is determined to be appropriate by comparing at least one of user preference data and usage based profile data to preference data associated with available advertising imagery.

15. (original) The method of claim 13, wherein said advertising imagery comprises still imagery provided as one of video imagery and a bitmap image.

16. (original) The method of claim 13, wherein said still imagery comprises a bitmap and said method further comprises:

adapting a color palette of said bitmap to a color palette compatible with said navigation stream.

17. (original) The method of claim 13, wherein said still imagery comprises video imagery encoded according to said GOP structure wherein an intra-coded frame of said GOP structure represents said still imagery and a plurality of inter-coded frames of said GOP structure operate to repeat at least portions of said intra-coded frame.

18. (original) The method of claim 1, wherein said step of combining comprises:

502407-1

Serial No. 09/922,242

Page 29 of 33

removing data within said navigation stream representing image slices substantially corresponding to said stream position and image size to produce a reduced data encoded navigation stream;

said combined stream comprising said reduced data encoded navigation stream and said encoded video stream, said encoded video stream including data representing image slices corresponding to said stream position and image size.

19. (original) The method of claim 1, wherein said step of combining comprises:

removing data within said navigation stream representing image macroblocks substantially corresponding to said stream position and image size to produce a reduced data encoded navigation stream;

said combined stream comprising said reduced data encoded navigation stream and said encoded video stream, said encoded video stream including data representing image macroblocks corresponding to said stream position and image size.

20. (original) A method for generating a customized user interface, said user interface comprising imagery supported by a video layer and a graphics layer, said video layer provided via an encoded video stream, said graphics layer provided via graphics data, said graphics data and said video stream intended for contemporaneous presentation, said method comprising:

determining a profile associated with an encoded navigation stream, said profile including spatial and temporal parameters;

encoding a video stream according to said profile to produce an encoded video stream, said encoded video stream representing imagery having associated with it a screen position and an image size;

combining said encoded navigation stream and said encoded video stream to produce a combined stream representing navigation imagery including

Serial No. 09/922,242  
Page 30 of 33

said video stream imagery within said screen position and according to said screen size.

21. (previously presented) A method for delivering customized navigation imagery to a user, comprising:

receiving a request from a user for navigation imagery;

retrieving, from a server, navigation imagery and advertising imagery appropriate for said user;

encoding said retrieved navigation imagery and advertising imagery to produce an encoded navigation video stream, said navigator video stream representing navigation imagery including advertising imagery appropriate to said user;

determining a profile associated with said encoded navigation stream, said profile including spatial and temporal parameters;

encoding a video stream according to said profile to produce an encoded video stream, said encoded video stream representing imagery having associated with it a screen position and an image size;

combining said encoded navigation stream and said encoded video stream to produce a combined stream representing navigation imagery including said video stream imagery, said video stream imagery having associated with it said screen position and said screen size.

22. (original) The method of claim 21, wherein said advertising imagery is determined to be appropriate by comparing user preference data and preference data associated with available advertising imagery.

23. (original) The method of claim 21, wherein said advertising imagery comprises still imagery.

24. (original) The method of claim 23, wherein said still imagery comprises a bitmap.

502407-1

Serial No. 09/922,242

Page 31 of 33

25. (original) The method of claim 21, wherein:

said navigation imagery is supported by a video layer and a graphics layer, said video layer provided via a navigation video stream encoded according to said common GOP structure and said profile, said graphics layer provided via graphics data included within an associated graphics data stream, said graphics data and said navigation video stream intended for contemporaneous presentation.

502407-1

Serial No. 09/922,242  
Page 32 of 33

## EVIDENCE APPENDIX

None

502407-1



Serial No. 09/922,242  
Page 33 of 33

### **RELATED PROCEEDINGS APPENDIX**

None.

502407-1